



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 18, 2014
Commerce Committee

Testimony Submitted by Commissioner Robert J. Klee
Presented By Deputy Commissioner McCleary

House Bill No. 5573 (Raised) – AAC BROWNFIELD REMEDIATION AND DEVELOPMENT.

Thank you for the opportunity to present testimony regarding Raised House Bill No. 5573 – AAC BROWNFIELD REMEDIATION AND DEVELOPMENT. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

As background, the raised bill proposes four changes to the state's primary site cleanup programs. First, it introduces the concept of an Interim Verification into the Voluntary Remediation Program, a concept already in place in the Property Transfer Program. Second, it adds an automatic approval process for the most complex and highest risk polluted properties in the Voluntary Remediation Program. Third, it limits properties that are entered into the Property Transfer Program. Finally, it expands the Interim Verification options for sites in the Property Transfer Program, allowing portions of a site to be addressed. DEEP has been working for over three years to evaluate and transform the state's cleanup program, with large-scale changes anticipated soon. However, DEEP is willing to offer the following comments on this proposal that would address our concerns.

Section 1 of the bill amends the Voluntary Remediation Program by adding the option of submitting an Interim Verification, which means soil cleanup is complete but groundwater cleanup is still underway. The key features of an Interim Verification are the requirements that the groundwater remedy remain in operation until standards are achieved, including operation and maintenance, and that the party ensure there are no exposures to the contaminated groundwater (e.g., no one drinks it or is breathing vapors rising from it into buildings). However, the language as drafted allows a party to claim credit for an Interim Verification, but would not require performance of these key protective features. This may have been inadvertent, and can be cured by ensuring the obligations of an Interim Verification are triggered upon submittal, as is the case with the Property Transfer Program.

The second provision in Section 1 creates automatic approvals of the sites that are overseen by DEEP, which are the sites that are the most technically complex or have the most public interest. DEEP only retains oversight of approximately 15 percent of the sites entered into the Voluntary Remediation

Program. The remainder of sites in this program have oversight delegated to Licensed Environmental Professionals. An automatic approval of the sites overseen by DEEP, absent any DEEP review, would create a fictional state approval on the most complex cleanup matters that may affect public health, the state's natural resources, and the interest of private property owners and neighborhood residents. It also needlessly adds new layers of judicial appeal on matters that are deemed voluntary under the statute. This addition does not create certainty, is not considered "lean," and may only add to confusion of parties that rely on state "approvals" for the assurance they need to make business decisions.

In Section 3, DEEP supports the concept of an exemption from the Property Transfer Program for hazardous building materials, and has been working with proponents of the bill on alternative language that more clearly addresses this issue.

Section 5 proposes amendment of the Property Transfer Program to add an option for an Interim Verification for a portion of a parcel. If a responsible party with no existing cleanup deadline, pre-October 2009, chooses to use the newly proposed portion Interim Verification, DEEP would suggest adding an eight year cleanup deadline for the remainder of the original Transfer Act parcel. This would ensure that portions of properties subject to the Transfer Act would not be abandoned, posing a significant burden to municipal and state government and surrounding private property owners, and potentially creating a public health risk.

DEEP has been working with proponents of the bill to address these concerns and welcomes the opportunity to work with the Commerce Committee and proponents of the bill to make certain that the language of the bill comports with concepts outlined in this testimony. In the absence of substitute language we have concerns with the bill and serious concerns with the proposed automatic approval language.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Robert LaFrance, DEEP's Director of Governmental Affairs, at 860.424.3401 or Robert.LaFrance@ct.gov (or, Elizabeth McAuliffe, DEEP Legislative Liaison, at 860.424.3458 or Elizabeth.McAuliffe@ct.gov).